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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,945	09/24/2003	Christina Kay Booker	31274/82679	4790

7590 09/28/2005

Barnes & Thornburg
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EXAMINER	
AVERY, BRIDGET D	

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/669,945	BOOKER, CHRISTINA KAY	
	Examiner	Art Unit	
	Bridget Avery	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 August 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-53* is/are pending in the application.

4a) Of the above claim(s) *10,11 and 15-53* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 12-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/22/03 &8/15/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species I (Figures 1, 3 and 5-8); Species II (Figures 2, 4, 10-12, 14 and 16-18; Species III (Figures 9 and 19; and Species IV (Figures 13 and 15).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Greg Cooper on September 20, 2005 a provisional election was made with traverse to prosecute the invention of Species I (Figures 1, 3 and 5-8), claims 1-9 and 12-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10, 11 and 15-53 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 4-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (US Patent 5,203,613) in view of Girardin (US Patent 6,547,334).

Ward teaches a shopping cart having a seat for supporting a juvenile, a first bar, a second bar extending from the first bar, and a child restraining apparatus for restraining the juvenile in the seat of the shopping cart, the child restraining apparatus including: first and second adjustable shoulder straps (12, 14) positionable over the

juvenile's shoulders, each of the first and second shoulder straps (12, 14) having first and second ends (22); wherein the first ends (22) of the first and second shoulder straps (12, 14) are selectively attachable to the first bar (50); the shoulder straps (12, 14) are positioned substantially parallel to each other; and a belt (16), the belt (16) having first and second ends, the first and second ends are attachable to each another. Ward further teaches a clasp on at least one end of the shoulder straps (12, 14) as stated in column 5, lines 8-15.

Ward lacks the teaching of a chest panel, a crotch strap and a adjustable belt.

Girardin teaches a cross strap (27 in Figure 1) and a chest panel (36 in Figures 3 and 6). Girardin teaches a padded adjustable crotch strap (24) attached to the cross strap (27). The crotch strap (24) extends from the cross strap (27) in a direction opposed to first and second shoulder straps (5, 6). Girardin further teaches an adjustable belt (9) and padded areas (30, 31). See column 2, lines 24-67.

Based on the teachings of Girardin, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to attach a chest panel to shoulder straps to provide additional support for the child and to reduce the chances of side slipping out of the shoulder straps, as taught in the optional variation in Figures 3 and 6 and in column 2, lines 58-62. Based on the teachings of Girardin, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to attach a crotch strap to the chest panel to prevent the child from standing while restrained by the restraining apparatus, since Girardin clearly teaches a crotch strap attached to a cross strap that can be optionally replaced by a chest panel. Re claim 4,

Girardin teaches a padded strap (24) and padded areas (30, 31) in column 2, lines 38-54. Based on the teachings of Girardin, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add padding to the chest panel to protect the chest of the child against chafing. Re claim 9, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a clasp to the crotch strap since Ward teaches an adjustable clasp, buckle or clip in column 5, lines 11-15 to adjust the length of the strap to accommodate children of different sizes in the shopping cart.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward ('613) and Girardin ('334) as applied to claim 1 above, and further in view of Divoky et al. (US Patent 6,186,521).

The combination of Ward and Girardin teach the features described above.

The combination of Ward and Girardin lack the teaching of attaching the crotch strap to a third bar located adjacent to the seat of the shopping cart.

Divoky et al. teaches shopping cart including a seat, a child safety restraint and a crotch strap attached to a bar located adjacent the seat on the shopping cart.

Based on the teachings of Divoky et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the combination of Ward and Girardin by attaching the crotch strap to a bar adjacent the seat on the shopping cart to prevent the child from standing in the seat while being restrained by the restraint apparatus.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward ('613) and Girardin ('334) as applied to claim 1 above, and further in view of Morris (US Patent 6,857,430.

The combination of Ward and Girardin teach the features described above.

The combination of Ward and Girardin lack the teaching of selectively attaching the crotch strap to the child restraint apparatus.

Morris teaches a crotch strap (22 at the lower end of the "Y") with a strap portion (40) that is selectively attachable to a child restraint apparatus (10).

Based on the teachings of Morris, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the crotch strap taught by combination of Ward and Girardin to be selectively attachable to the child restraint apparatus to provide a fully adjustable restraining apparatus so that a child of any size can be easily secured within, and quickly released from a shopping cart.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward ('613) and Girardin ('334) as applied to claim 1 above, and further in view of Martin et al. (US Patent 6,409,272).

The combination of Ward and Girardin teach the features described above.

The combination of Ward and Girardin lack the teaching of a support strap.

Martin et al. teaches a support strap (50).

Based on the teachings of Martin et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a support strap to the combination of Ward and Girardin to minimize a child's ability to defeat the restraint.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Silverman shows a safety harness.

Ostrander et al. shows a multi-purpose child safety harness.

Greene shows a harness safety system.

Howell shows a child restraint seat for shopping cart.

Schreier shows a five-point safety system for a seat.

Jimenez shows child safety devices.

Mandracchia et al. shows a harness for small children.

Mar shows a multi-purpose stroller with detachable frame.

Otaegui-Ugarte shows a protector for vehicle occupant.

DiFloria et al. shows a child's safety harness for shopping carts.

8. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

Avery

September 21, 2005

CHRISTOPHER P. ELLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600